

REMARKS

In the Subject Application, claims 22-69 are pending and of those claims 22-53 and 69 are withdrawn from consideration. In the Office Action, the Examiner rejects claims 54-68. Claims 56-57 and 59 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; claims 54-57 and 60-66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,295,469 issued to Linkwitz et al. ("Linkwitz") in view of United States Patent No. 4,989,607 issued to Keusch et al. ("Keusch") and United States Patent No. 5,380,272 issued to Gross ("Gross"); and claims 58-59 and 61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Linkwitz in view of Gross, and further in view of United States Patent No. 5,334,138 issued to Sage et al. ("Sage").

Applicants respectfully traverse the rejections under 35 U.S.C. § 103(a).

Election/Restriction

Applicants affirm the telephonic election of Group V consisting of claims 54-68 for further examination in the subject application without traverse.

Claim Rejections – 35 U.S.C. § 112

Claims 56-57 and 59 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that claims 56-57 and 59 take original percentage weights

from the original specification and add the words "up to" in front of those percentage weights creating ranges that were not previously conveyed to the reader. Applicants herein amend claims 56-57 and 59 to replace the occurrences of "present up to" with "about" without any disclaimer of the subject matter but only to expedite prosecution.

35 U.S.C. § 103(a)

Claims 54-57 and 60-66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Linkwitz et al. in view of Keusch and Gross and claims 58-59 and 61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Linkwitz in view of Keusch and Gross and further in view of Sage. Applicants respectfully traverse this rejection.

Specifically, Applicants traverse Examiner's statement that the effective filing date of the claims is June 9, 1999. Packaging is mentioned in the earlier patent applications from which this subject application claims priority. The subject application is a continuation application claiming priority under 35 U.S.C. § 120 from Application Serial No. 09/328,329 which issued into U. S. Patent No. 6,377,847 on April 23, 2002, that is a continuation-in-part of Application No. 08/533,979 filed September 29, 1995, which is a continuation-in-part of Application No. 08/129,222 filed September 30, 1993. All the priority documents contain references to packaging that support the claim language, therefore Applicants respectfully submit that the effective filing date of claims of the subject application as currently presented is September 30, 1993. For example, the following paragraph is included in all priority applications:

The ability of the cross linked water soluble
polymer to retain aqueous solution and its stability

over extremes of ambient temperature, allow the iontophoretic drug delivery device 10 to be prepackaged and stored as a ready to use device, eliminating the need for loading a drug solution after opening and assembly. (See, for example, U.S. Serial No. 08/129,222 page 15, lines 13-18 and U.S. Serial No. 08/533,979 page 17, lines 21-26)

The primary reference Linwitz does not predate the filing date of earliest application from which the claims of the subject application may claim priority. Therefore, Linkwitz may not be properly used in a rejection of the claims under 35 U.S.C. § 103(a). Reconsideration of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

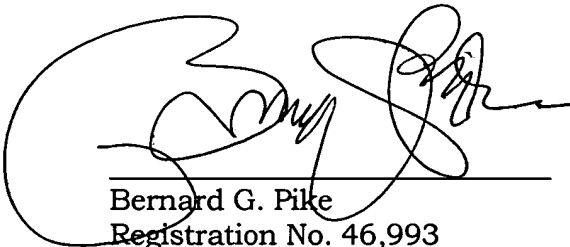
New Claims

Applicants herein add new claim 70. The claim is supported by the written description of the subject application and does not present new matters.

CONCLUSION

Applicants believes that they have fully address each basis for rejection. Reconsideration of the claims of the subject application and issuance of a Notice of Allowability is respectfully requested. Should the Examiner have any remaining concerns, he is requested to contact the undersigned at the telephone number below so that those concerns may be addressed without the necessity for issuing an additional Office Action.

Respectfully submitted,



Bernard G. Pike
Registration No. 46,993

Kirkpatrick & Lockhart LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222-2312

Telephone: (412) 355-8620
Facsimile: (412) 355-6501